**REMARKS**

Claims 1-21 are pending herein.

Support for new claim 21 can be found, for example, in original claims 1, 8 and 9 and in paragraph [0008] of the specification.

No new matter is added.

**Claims 1, 2, 5, 7-9 and 18-20, 35 U.S.C. 102(b)**

Claims 1, 2, 5, 7-9 and 18-20 have been rejected under 35 U.S.C. 102(b) as being anticipated by Solomon et al. US 5,451,424 (Solomon). This rejection and its accompanying remarks are respectfully traversed.

The present invention is directed to medical articles that comprise an antimicrobial region, which antimicrobial region comprises release-modulating microparticles dispersed within a latex polymer. The release-modulating microparticles comprise an antimicrobial agent and are adapted to release the antimicrobial agent.

Solomon discloses an anti-infective medical article having chlorhexidine, and possibly an antibiotic, distributed throughout a polymer base layer.

In the claimed invention, release-modulating microparticles comprising an antimicrobial agent are dispersed within the polymer. In Solomon, on the other hand, the chlorhexidine and antibiotic are present in a molecular dispersion in the polymer. See, e.g., Figures 2-9, and their discussion at column 7, lines 7-49, in which the dots and x's represent the chlorhexidine and antibiotic in the form of molecules. There is no disclosure of microparticles as recited in the instant claims. It follows, *a fortiori*, that there is no disclosure of release-modulating microparticles.

Moreover, in the claimed invention, the microparticles are dispersed within a latex polymer. As defined in paragraph [0021] of the specification, a "latex polymer" is a polymer, which is formed from a latex. A "latex," is an aqueous polymer dispersion (i.e., a dispersion of polymer particles in a water-containing fluid). In Solomon, the molecules are dispersed in a melt polymer, rather than a latex polymer.

For a reference to anticipate a claim it must disclose each an every element of the claim. See MPEP 2131 and cases cited therein, especially *Richardson v. Suzuki Motor Co.*, 868 F.2d

1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989) and *In re Marshall*, 578 F.2d 301, 304, 198 U.S.P.Q. 344, 346 (CCPA 1978).

Since the Solomon reference lacks at least two elements of even the broadest of the present claims, this reference clearly fails as an anticipation.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

**Claims 1, 2 and 7-17 – 35 U.S.C. 102(b)**

Claims 1, 2 and 7-17 have been rejected under 35 U.S.C. 102(b) as being anticipated by Umemura et al. US 4,902,503 (Umemura). This rejection and its accompanying remarks are respectfully traversed.

The present invention is directed to medical articles that comprise an antimicrobial region, which antimicrobial region comprises release-modulating *dispersed microparticles* within a latex polymer. The release-modulating microparticles comprise an antimicrobial agent and are adapted to release the antimicrobial agent.

Umemura discloses (a) a first antimicrobial latex composition comprising a homogeneous blend of a natural rubber latex or a synthetic polymer latex and protein silver and (b) a second antimicrobial latex composition comprising a homogeneous blend of a cationic natural rubber latex or a cationic synthetic polymer latex and a water-soluble silver compound. See the Abstract.

In each of these compositions the silver antimicrobial agent is dissolved in the latex, rather than being released from dispersed microparticles as claimed. More specifically, the second latex contains water-soluble silver compound. The first latex composition contains protein silver, which Umemura teaches has high solubility in water. Col. 2, lines 56-61. See also Example 1 of Umemura ("6.4 parts of protein silver were dissolved in 20 parts of distilled water")(emphasis added).

Umemura, like Solomon, lacks any teaching of release-modulating microparticles as claimed in claim 1, much less those recited in claims 7, 9 and 21, for example, and it fails as an anticipation for the same reasons that Solomon does.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

**Claims 1-6, 35 U.S.C. 103**

Claims 1-6 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Umemura in view of McGlothlin et al. US 6,329,444 (McGlothlin). This rejection and its accompanying remarks are respectfully traversed.

The failure of Umemura to teach elements of the here-claimed invention has been discussed above. McGlothlin, which has been relied on for its disclosure of balloon catheters and vulcanization, does not make up for the deficiencies of Umemura noted above. McGlothlin adds nothing relevant to Umemura with respect to dispersed release-modulating microparticles. Thus there is no basis for a holding of obviousness of claims 1-6 over Umemura and McGlothlin.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

**CONCLUSION**

Applicant submits Claims 1-21 are in condition for examination and allowance, early notification of which is earnestly solicited. Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone the Applicant's attorney at (703) 433-0510 in order that any outstanding issues be resolved.

**FEES**

If there are any fees due and owing in respect to this amendment, the Examiner is authorized to charge such fees to deposit account number 50-1047.

Serial No. 10/631,871

Respectfully submitted,

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this document, and any document referenced herein, has been transmitted via facsimile to the US Patent and Trademark Office at 571-273-8300 on August 30, 2006.

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(Printed Name of Person Faxing Correspondence)

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